

Amendment No. 1 to HB2604

DeBerry J
Signature of Sponsor

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Comm. Amdt. _____

AMEND Senate Bill No. 2644

House Bill No. 2604*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. The provisions of this act, even though not codified together, may collectively be known as the "Child Protection Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 36-1-113, is amended by deleting subsection (k) in its entirety and by substituting instead the following:

(k) The court shall make every effort to ensure that the hearing on the petition takes place within six (6) months of the date that the petition is filed. The court shall enter an order that makes specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing.

SECTION 3. Tennessee Code Annotated, Section 36-1-119, is amended by deleting the language "two (2) years" from subsection (d) thereof and by substituting instead the language "one (1) year" and is further amended by deleting the language "one (1) year" from subsection (e) thereof and by substituting instead the language "nine (9) months".

SECTION 4. Tennessee Code Annotated, Section 37-1-407, is amended by inserting the following as a new, appropriately designated subsection thereto:

() A representative of the department responsible for each departmental region in the state shall, by January 15 of each year, report to the judiciary committees of the senate and house of representatives, the children and family affairs committee of the house of representatives and the select committee on children and youth, the status of teams in that region along with any recommendations for enhancement of the child abuse plan and program in that region. The department shall establish a procedure and format for data collection in preparation of the report. The procedure and format developed shall include at a minimum the following information:

- (1) The number of reports received for investigation by type;
- (2) The number of investigations initiated by type;
- (3) The number of final dispositions of cases obtained in the current reporting year by type of disposition as follows:
 - (A) Unsubstantiated closed, no service;
 - (B) Unsubstantiated, referred for non-custodial support services;
 - (C) Substantiated closed, no service;
 - (D) Substantiated, service provided, no prosecution;
 - (E) Substantiated, service provided, prosecution, acquittal; or
 - (F) Substantiated, service provided, prosecution, conviction.
- (4) Age, race, gender, and relationship to the victim of perpetrators; and
- (5) The type and amount of community-based support received by teams through linkages with other local agencies and organizations and through monetary and in-kind donations.

SECTION 5. Tennessee Code Annotated, Section 40-39-202, is amended by deleting subdivision (10) and substituting instead the following:

(10) "Parent" means any biological parent, adoptive parent, or step-parent, and includes any legal or court-appointed guardian or custodian; however "parent" shall not include step-parent if the offender's victim was a minor;

SECTION 6. Tennessee Code Annotated, Section 40-39-203, is amended by deleting the first sentence of subsection (a) and substituting instead the following:

Within forty-eight (48) hours of establishing or changing a primary or secondary residence, establishing a physical presence at a particular location, or becoming employed or practicing a vocation or becoming a student in this state, the offender shall register in person, as required by the provisions of this part.

SECTION 7. Tennessee Code Annotated, Section 40-39-203, is amended by deleting the first sentence of subsection (c) and substituting instead the following:

An offender from another state, jurisdiction, or country, who has established a primary or secondary residence within this state, or has established a physical presence at a particular location shall, within forty-eight (48) hours of establishing such residency or physical presence, register in person with the designated law enforcement agency, completing and signing a TBI registration form, under the penalty of perjury, pursuant to § 39-16-702(b)(3).

SECTION 8. Tennessee Code Annotated, Section 40-29-203, is amended by adding the following to the end of subsection (i)(17):

SECTION 8. Tennessee Code Annotated, Section 40-29-203, is amended by adding the following to the end of subsection (i)(17):

(a) By January 1, 2007, the TBI shall promulgate and disseminate to all applicable law enforcement agencies, correctional institutions and any other agency that may be called upon to register an offender, rules establishing standardized specifications for the photograph of the offender required by this subdivision. Such rules shall specify that the photograph or digital image submitted for each offender must conform to the following compositional specifications or the entry will not be accepted for use on the registry and the agency will be required to resubmit the photograph:

(1) Head Position

(A) The person being photographed must directly face the camera;

(B) The head of the person should not be tilted up, down, or to the side; and

(C) The head of the person should cover about 50% of the area of the photo.

(2) Background

(A) The person being photographed should be in front of a neutral, light-colored background; and

(B) Dark or patterned backgrounds are not acceptable.

(3) The photograph must be in focus.

(4) Photos in which the person being photographed is wearing sunglasses or other items that detract from the face are not permitted.

(5) Head Coverings and Hats

(A) Photographs of applicants wearing head coverings or hats are only acceptable due to religious beliefs, and even then, may not obscure any portion of the face of the applicant; and

(B) Photos of applicants with tribal or other headgear not specifically religious in nature are not be permitted.

SECTION 9. Tennessee Code Annotated, Section 40-39-211, is amended by deleting subsection (a) and substituting instead the following:

(a) While mandated to comply with the requirements of this chapter, no sexual offender, as defined in § 40-39-202(16), or violent sexual offender, as defined in § 40-39-202(24), whose victim was a minor, shall knowingly establish a primary or secondary residence or any other living accommodation, or knowingly accept employment, within one thousand feet (1,000') of the property line on which any public school, private or parochial school, licensed day care center, other child care facility, park, playground, recreation center or public athletic field is located.

SECTION 10. Tennessee Code Annotated, Section 40-39-301, is amended by deleting the first sentence of subdivision (3) and substituting instead the following:

"Violent sexual offender" means any person who is convicted in the state of Tennessee, on or after July 1, 2004, of any sexual offense, as defined in

subdivision (2) or § 40-39-202(17); or any such person who is convicted in any other jurisdiction of any offense which would constitute a sexual offense in Tennessee.

SECTION 11. Tennessee Code Annotated, Section 40-39-202(17), is amended by deleting subdivision (A)(viii) and substituting instead:

(viii) Spousal sexual battery for those committing the offense prior to June 18, 2005, under former §39-13-507;

SECTION 12. Tennessee Code Annotated, Section 40-39-203, is amended by designating the existing language of subsection (a) as (a)(1) and by adding the following new (a)(2):

(a) An offender who resides and is registered in this state who intends to move out of this state shall, within forty-eight hours (48) hours of moving to another state, report to such offender's designated law enforcement agency the address at which the offender will reside in the new jurisdiction.

SECTION 13. Tennessee Code Annotated, Section 40-39-208, is amended by adding the following new item to subsection (a):

() Failure to timely report to the offender's designated law enforcement agency prior to moving to another state;

SECTION 14. Tennessee Code Annotated, Section 40-39-203, is further amended by deleting subsections (i)(10) and (i)(15) and substituting instead the following:

(10) Any vehicle, mobile home, trailer, or manufactured home, used or owned by an offender, including descriptions, VIN, and license tag numbers;

(15) Whether victims of the offender's convictions are minors or adults and the correct age of the victim or victims at the time of the offense or offenses, if known;

SECTION 15. Tennessee Code Annotated, Section 40-39-203, is further amended by designating the language of subsection (b) as (1) and by adding the following new (b)(2):

(2) After registering with the incarcerating facility as provided in subdivision (1), an offender who is incarcerated in this state in a local, state, or federal jail, or a private penal institution shall, within forty-eight (48) hours after such offender's release from the incarcerating institution, report in person to the offender's registering agency unless the place of incarceration is also such person's registering agency.

SECTION 16. Tennessee Code Annotated, Section 40-39-204, is amended by deleting from the third sentence of subsection (b) the language "during the March reporting,".

SECTION 17. Tennessee Code Annotated, Section 40-39-204, is further amended by deleting the first sentence of subsection (e) and substituting instead the following:

If a person required to register under this part is reincarcerated for another offense or as the result of having violated the terms of probation, parole, conditional discharge, or any other form of alternative sentencing, the offender shall immediately report such offender's status as a sexual offender or violent sexual offender to the facility where such offender is incarcerated or detained and notify the offender's appropriate registering agency, if different, that the offender is currently being detained or incarcerated.

SECTION 18. Tennessee Code Annotated, Section 40-39-205, is amended by deleting subsection (b) and substituting instead the following:

(b) It shall be the duty of the offender's designated registering agency, its representatives and designees, including any district attorney general's criminal investigator, to verify all information contained in the offender's SOR.

SECTION 19. Tennessee Code Annotated, Section 40-39-211, is amended by deleting subsection (a) and substituting instead the following:

(a) While mandated to comply with the requirements of this chapter, no sexual offender, as defined in § 40-39-202(16), or violent sexual offender, as defined in § 40-39-202(24), whose victim was a minor, shall knowingly establish a primary or secondary residence or any other living accommodation, or knowingly accept employment, within one thousand feet (1,000') of the property line on which any public school, private or parochial school, licensed day care center, other child care facility, park, playground, recreation center or public athletic field is located.

SECTION 20. Tennessee Code Annotated, Section 39-13-506, is amended by deleting the section in its entirety and substituting instead the following:

(a) Mitigated statutory rape is sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least fifteen (15) but less than eighteen (18) years of age and the defendant is at least four (4) but nor more than five (5) years older than the victim.

(b) Statutory rape is sexual penetration of a victim by the defendant or of the defendant by the victim when the victim is at least thirteen (13) but less than eighteen (18) years of age and the defendant is at least four (4) years older than the victim.

(c)

(1) Mitigated statutory rape is a Class E felony.

(2) Statutory rape is a Class E felony.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. For the purpose of the TBI promulgating standardized photograph specifications as required by Section 8, this act shall take effect upon becoming a law, the public welfare requiring it. Section 4 of this act shall take effect on July 1, 2007. All other Sections of this act shall take effect July 1, 2006, the public welfare requiring it.